

**METROPOLITAN NASHVILLE-DAVIDSON COUNTY
TRANSPORTATION LICENSING COMMISSION**

Minutes of

February 26, 2008

The Metropolitan Nashville-Davidson County Transportation Licensing Commission (the "Commission") met in regular session on this date at the Metropolitan Courthouse. The Commissioners present were Vice Chair Duane McGray and Commissioners Jennifer Brundige, Tom Turner, and Ed Whitmore (4). Also attending were Metro Legal advisor Jon Michael; Commission staff members Walter Lawhorn, Milton Bowling and Lisa Steelman; and Brian McQuiston, Director-Executive Secretary to the Commission.

Vice Chair Duane McGray called the meeting to order and led the Pledge of Allegiance. He read the Notice of Appeal statement, advising of the right to appeal decisions of the Transportation Licensing Commission.

The minutes of the January 22, 2008 meeting were approved.

DIAMOND TAXI REPORT ON COMPLIANCE

Director McQuiston summarized previous Commission decisions and extensions granted to Diamond Taxi related to the company's noncompliance with requirements to maintain a fixed place of business to dispatch cabs and to maintain two-way radios in all vehicles. He confirmed that Diamond Taxi had satisfied two of the requirements levied by the Commission in approving another extension at the January 22, 2008 meeting: the fax machine at Diamond Taxi was operational, and the company had received certified mail from the Commission. He noted that the only outstanding issue for compliance was the requirement to have radios installed in the fifteen Diamond taxicabs. Inspector Lawhorn reported that Diamond Taxi had radios installed and operational in thirteen of its fifteen vehicles.

Roy Gillespie, owner of Diamond Taxi, appeared. He reported that he had two more radios, but these had not yet been installed. He stated that one of the vehicles had been in a wreck, and the other was in for transmission repairs. **Vice Chair Duane McGray** noted that the requirement had been to have all fifteen radios installed.

Director McQuiston stated that any reduction of permits would place Diamond Taxi out of compliance with the ordinance requirement to maintain a minimum of fifteen taxicabs, and recommended against a sanction which would reduce the number of permits. He recommended instead that the Diamond Taxi certificate of public convenience and necessity be suspended until the company met the requirement for fifteen radios installed, to be verified by the commission inspector. He also expressed concern that it had been several months since some of the company's vehicles and radios had been inspected, and recommended that all fifteen vehicles be included in the final compliance inspection. The director requested that the Commission consider empowering the staff to lift the suspension when it was confirmed that Diamond Taxi had met the requirement, so that the company would not have to wait for another appearance before the Commission in order to be reinstated.

Following discussion on how to inspect the vehicles and confirm the company's vehicle list,

Commissioner Tom Turner moved to suspend the Diamond Taxi certificate of public convenience and necessity until the company provided a current vehicle list and the staff confirmed that radios were installed and operational in all fifteen vehicles; and to empower the staff to reinstate the certificate when the company came into compliance. **Commissioner Jennifer Brundige** seconded, and the motion passed (3-0).

TAXI DRIVER DISCIPLINARY HEARING: TILAHUN ESHETE

Director McQuiston reported that a complaint had been received from Ms. Tricia Griggs, who is blind. He stated that Ms. Griggs had attempted to take a cab from the airport ground transportation area on December 8, 2007; and that Tilahun Eshete, who was driving American Music City #49, told her that she would have to pay extra for her seeing eye dog. This was a violation of the Americans with Disabilities Act. The airport authority had confirmed the report, and had suspended Mr. Eshete from the airport. Director McQuiston provided copies of the airport disciplinary report. He stated that Ms. Griggs had personally trained every taxi driver on how to serve people with disabilities for the past five years, as part of the required annual hospitality classes for drivers. He noted that Mr. Eshete had attended that training three times since obtaining his first permit.

Mr. Eshete appeared before the Commission. He acknowledged that he had made a mistake, and apologized. He stated that he had been disciplined by the airport. **Vice Chair Duane McGray** asked if he had received the training on serving people with disabilities. Mr. Eshete stated that he had attended the training, and that he now understood the offense. Robert Russ, a manager at American Music City Taxi, stated that Mr. Eshete had been driving for the company for almost one year. He stated that, following the report received from the airport, he had met with Mr. Eshete and explained the offense. The company had contacted Ms. Griggs to apologize. **Commissioner Jennifer Brundige** moved to revoke Mr. Eshete's taxicab driver permit. **Commissioner Tom Turner** seconded. During discussion **Commissioner Ed Whitmore** requested that leniency be considered for a first offense. Director McQuiston expressed concern that serving people with disabilities had long been a priority for the Commission, and that it had been consistent to date in dealing with violations. The motion passed (2-1).

APPLICATION FOR TAXICAB DRIVER PERMIT: MUSEVENI MALIANI

Mr. Maliani appeared before the Commission. Director McQuiston reported on Mr. Maliani's permit history since he had received his initial permit in May 2005. This included a disciplinary hearing in August 2005; at that meeting the Commission had suspended his permit for three months and placed him on probation for three years. The director noted that this probation was still in effect. He added that, when Mr. Maliani applied for his new taxi driver permit on January 11, 2008, a background check revealed an undisclosed August 2007 conviction for domestic assault.

Vice Chair Duane McGray asked Mr. Maliani why he had not disclosed the arrest on his application, as required. Mr. Maliani acknowledged that he had been convicted, but stated that he had been trying to get a copy of the police report. Director McQuiston showed Mr. Maliani a copy of his application, on which he had indicated that he had no convictions. **Vice Chair McGray** noted that the conviction had been less than six months ago.

Commissioner Tom Turner recommended disapproval of Mr. Maliani's application. **Commissioner Jennifer Brundige** seconded, and the motion passed (3-0).

APPLICATION FOR WRECKER COMPANY LICENSES:

Action Transportation Services: Martha Brashear, owner of Action Transportation Services, appeared before the Commission with her son William Brashear. They provided Commissioners with copies of a bulletin entitled "Nashville Criminal Court Judge Says Private Property Tow-Away Law is Unconstitutional".

Director McQuiston stated that Mrs. Brashear previously had been involved in the operation of Action Towing, a wrecker company formerly licensed in Davidson County. He stated that Action Towing had ceased operations some years before, in part because the Commission had closed it down. He cited the March 28, 2000 decision of the Taxicab and Wrecker Licensing Board, in which the company's license had been suspended for one year. Because the Commission had sanctioned the management of Action Towing for illegal towing operations in the past, the director recommended that this application be disapproved.

Mrs. Brashear denied that Action Towing had been shut down, although she acknowledged that they had been suspended one time. She stated that the company had decided to move in 2007 to another county, and then sold the company; because of nonpayment, they had taken the company back in December. She stated that they had left Davidson County only because of her husband's poor health.

William Brashear stated that Action Towing had been suspended twice in the past. He stated that the company did not want to do nonconsent towing; Mrs. Brashear agreed.

Vice Chair Duane McGray noted that a letter had been sent to Mr. Brashear in June 1999, revoking the company's license. Mr. Brashear responded that this was actually a six-months suspension, not a revocation. He explained that during that time the board issued licenses differently, and Action Towing had been required to turn in their license to perform nonconsent tows. He added that since that decision he had held both a company license and a wrecker driver permit.

Director McQuiston referred to an April 4, 2000 notice sent to Mr. Brashear, suspending the company's license for a year. **Vice Chair McGray** stated that there was a significant history of problems with Action Towing. Mr. Brashear explained that the company was performing nonconsent tows during the period of a couple of years while a lawsuit was being decided in federal court. He added that there was no enforcement of the industry during that period, and many companies and drivers were not even obtaining licenses or permits. He stated that at the time the board had no authority to regulate prices, and rates were left to the companies.

Vice Chair McGray asked Mrs. Brashear what role her husband now had in the business; she replied that he had no part in the business. Director McQuiston noted that Mrs. Brashear had been listed as Vice President of Action Towing on the company's 2000 application. **Vice Chair McGray** noted that the decision reflected in the March 28, 2000 minutes "prohibit(ed) the current owners and managers of Action Towing from applying for a Davidson County wrecker license under any other name." Mrs. Brashear stated that she did not remember receiving a letter to that effect, and that this was the first time she had heard it. She asked if there had been a certified letter sent; Director McQuiston stated that he did not know.

Vice Chair McGray asked why the Brashears had provided the bulletin to the Commission. Mrs. Brashear stated that this was related to one of the issues brought up about Action Towing. Mr. Brashear stated that it was related directly to a police arrest which resulted in his suspension for thirty days. **Vice Chair McGray** stated that this appeared to be an overt attempt to intimidate the Commission. Mrs. Brashear stated that the Commission's concerns were about Action Towing; she was applying for a license to operate her own company, Action Transport Services. She restated that the company would not do nonconsent towing.

She asked that the company be given a chance; if they were not satisfactory, then the Commission could send her a certified letter.

Commissioner Tom Turner moved to approve a general wrecker license, with a twelve-months probation period, under the condition that the license would prohibit nonconsent tows.

Commissioner Ed Whitmore seconded, and the motion passed (2-1).

Copeland's Towing and Recovery: Director McQuiston reported that Copeland's Towing and Recovery had held a license since March 2007, restricted to consensual towing only. He explained that the restriction had been based on concerns that Mitchell Copeland, husband of company owner Theresa Copeland, had been sanctioned by the Commission in the past for violations related to nonconsent towing. The director stated that the Commission had approved that license, at least in part because Mrs. Copeland had assured the Commission that the company would not perform nonconsent towing. He noted that there had been no complaints received about Copeland's Towing since that license was issued, but added that this application was coming before the Commission because the company was now applying to be licensed for nonconsent towing.

Mrs. Copeland appeared before the Commission. She explained the financial reasons why she wanted to get into the nonconsent towing business, and stated that her husband's previous problems had been related to the policies and practices of his previous employer.

Director McQuiston stated that a background check on Mr. Copeland had revealed no new arrests or convictions.

Commissioner Jennifer Brundige moved to approve the application, with a probationary period until December 1, 2008. **Commissioner Tom Turner** seconded, and the motion passed (3-0).

APPLICATION FOR WRECKER DRIVER PERMITS:

Buddy Eddy: Mr. Eddy appeared before the Commission with Jim Mitchell, owner of Dad's Towing Service. Director McQuiston reported that Mr. Eddy had appeared before the Commission on December 18 to apply for a wrecker driver permit; however, because of Commission concerns about past drug-related arrests, he had withdrawn his application. The director reviewed Mr. Eddy's past permit history. He stated that Mr. Eddy consented to a random drug screen on December 19, which he passed.

Mr. Mitchell stated that Mr. Eddy had been working for him for quite a while, and that he would not be vouching for him if he had not been able to personally observe his work and behavior. **Commissioner Jennifer Brundige** asked Mr. Mitchell if the company had a program in place to perform random drug tests; he responded that he did.

Vice Chair Duane McGray asked Mr. Eddy when he had last used drugs; Mr. Eddy responded that it was in August 2006. **Commissioner Tom Turner** asked if he would be willing to submit to drug tests in the future; Mr. Eddy responded that he would.

Commissioner Turner moved to approve a wrecker permit, restricted to Dad's Towing for six months, with the additional requirement that Mr. Eddy submit to a random drug test every sixty days; the results of these tests to be provided by Dad's Towing to the Commission staff.

Commissioner Brundige seconded, and the motion passed (3-0).

Jacque Bell: Mr. Bell appeared before the Commission. Director McQuiston reported the results of his background check, and noted that Mr. Bell had failed to disclose his complete arrest and conviction history, including a guilty plea entered on a possession charge only

three weeks prior to submission of his application.

Mr. Bell explained his arrest history, and stated that he did not know that the latest case had been settled. Director McQuiston provided a copy of the General Sessions case summary, which indicated that a guilty plea had been entered on January 2, 2008; and pointed out that the application for a wrecker driver permit had been submitted on January 23, 2008.

The director noted that Mr. Bell had applied for a permit to drive for Tow Pro, but that no company management representative had appeared. Mr. Bell stated that the owner of Tow Pro would not hire him unless he obtained a permit.

Commissioner Jennifer Brundige expressed concern that Mr. Bell had failed to disclose. **Commissioner Tom Turner** moved to disapprove the application. **Commissioner Brundige** seconded, and the motion passed (3-0).

John Waldron: Mr. Waldron failed to appear. Director McQuiston stated that he had also notified Earl Garvin, owner of Easy Towing, of the hearing. **Commissioner Tom Turner** moved to disapprove the application. **Commissioner Ed Whitmore** seconded, and the motion passed (3-0).

Robert Flowers: Mr. Flowers appeared before the Commission with Mark Wayman, owner of Able Towing. Director McQuiston reported that Mr. Flowers had held a permit before; when he reapplied in December 2007, a background check revealed two convictions in 2004. The director stated that the 2004 convictions were not a concern, because they had been considered before Mr. Flowers was issued his previous permit; the problem was that Mr. Flowers had continued to drive a wrecker, knowing that he did not have a permit. He asked Inspector Bowling to report.

Inspector Bowling stated that he had issued Mr. Flowers a citation in May 2007, and that he had agreed to dismiss the case, provided that Mr. Flowers surrendered his permit. He added that Mr. Flowers had failed to do so, and had not appeared on the August court date. The inspector noted that the case was still pending, and an injunction had been issued. He also reported that the Commission had received a report that Mr. Flowers had been cited by MNPD for driving a wrecker without a permit on January 20.

Mr. Flowers stated that he had gone to environmental court; Mr. Wayman agreed. Mr. Wayman stated that the reason Mr. Flowers did not have a wrecker permit when he was stopped by the police was that he had not gone to the Commission office to pick it up. Mr. Wayman stated that Mr. Flowers had a right to make a living. Director McQuiston responded that he needed a permit to drive an Able tow truck; and that was why he was cited by the police. The director added that Mr. Wayman must know that Mr. Flowers, his son, did not have a permit. Mr. Wayman accused the Commission of taking away Mr. Flowers' permit. He stated that, if the Commission did not issue Mr. Flowers a permit, then he would put him in an Accelerated truck.

Commissioner Jennifer Brundige asked about the expiration of Mr. Flowers' permit. Director McQuiston stated that it had expired on December 1, and that Mr. Flowers had applied for a new permit. He explained that the process had been delayed because Mr. Flowers did not provide his driver's license to be copied as part of the application process; and before Mr. Flowers came in to complete the process and pay for his permit, the commission office had been informed by the police that Mr. Flowers had been cited for driving a wrecker without a permit.

Commissioner Brundige moved to disapprove the application. **Commissioner Tom Turner** seconded, and the motion passed (3-0). Mr. Wayman expressed dissatisfaction, and stated "see you in court."

REPORT ON WRECKER LICENSE/PERMIT RENEWALS:

Director McQuiston provided an update on the renewal of wrecker company licenses and permits which had expired in December.

OTHER BUSINESS

Vice Chair Duane McGray had requested information on the ages of current taxicabs. Director McQuiston provided a report compiled by Inspector Lawhorn. Inspector Lawhorn referred to the list, and noted that Checker Cab still had not filled all of the permits which had been approved by the Commission in November. He also noted that American Music City Taxi's report listed fewer vehicles than required by the ten percent rule. **Vice Chair McGray** clarified that there were 559 permits authorized, plus 13 ADA-Accessible taxicabs, and that companies were reporting 538 vehicles currently in operation. Inspector Lawhorn stated that this disproved the recurring statements by companies applying for more permits that there were not enough taxicabs to meet demand. **Vice Chair Duane McGray** noted that the average taxicab was a 2001 model. Inspector Lawhorn recommended a reduction in the age limit.

There was no further business, and the meeting was adjourned.

ATTEST:

Brian E. McQuiston
Director-Executive Secretary

APPROVED:

Helen S. Rogers
Chair